



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपीलसं./ITA No.293/RJT/2024
Assessment Year: (2016-17)
(Hybrid Hearing)

Sunil Kumar. 103/B 1 st Floor, Shakti Nagarkachchh - 370201.	Vs.	The ITO Gandhidham.	Ward-2,
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AGVPM8509M			
(Appellant)		(Respondent)	

Appellant by : Shri Chetan Agarwal, Ld. A.R.
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 26/12/2024
Date of Pronouncement : 20/01/2025

PER DINESH MOHAN SINHA, JM:

1. Captioned appeal filed by the assessee is against the order passed by the Commissioner of Income Tax (Appeals) [in short, "The Ld. CIT(A)"] vide his order dated 28/03/2024 which inter arises out of order passed by the Assessing Officer [in short, "The Ld. AO"] vide order dated-25/03/2022.

2. Facts of the case is that The appellant is an individual and filed his return of income for the AY 2016-17 on 07/11/2016 at income of Rs. 9,60,790/-. In the case of the appellant, proceedings under section 147 of the Act were initiated and a notice under section 148 of the Act was issued on 31/03/2021. Thereafter, various notices under section 142(1) of the Act / letters / questionnaires were also issued calling for relevant details.



3. After consideration of the reply filed by the appellant and the information gathered upon enquiry made under section 133(6) of the Act from the bank, the AO passed an order under section 147 r.w.s. 144 of the Act on 25/03/2022 wherein an addition of Rs. 47, 77,199/- was made to the income of the appellant as unexplained cash credits under section 68 of the Act. Penalty proceedings under section 271(1)(c) of the Act were also initiated.

4. During the assessment proceedings before the Ld. AO it was found from the information received on insight portal that the assessee had made bogus sales amounting to Rs. 47,77,199/- during A.Y. 2015-16 relevant to the A.Y. 2016-17. Notice u/s 142(1) of the Act was issued on 04/02/2022 which was delivered to the assessee on its e-mail through this notice assessee was asked to furnish the books of account, ledger and audit report of the relevant period. On reply of this notice filed his return of income in compliance to the notice in where assessee declared total income of Rs. 9,60,790/- as declared in the original return of income filed by the assessee. Another notice u/s 142(1) of the Act on 04/02/2022 was issued to furnish the details but no response to this notice was submitted by the assessee. Therefore the bogus sales made by the assessee amounting to Rs. 47,77,199/- remained unexplained. Hence the same was added back to the total income of the assessee u/s 68 of the I.T. Act, 1961.

5. The assessee filed an appeal before the Ld. CIT(A) against the order passed by the Ld. AO u/s 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act,1961.

6. That in the appeal proceedings before the Ld. CIT(A) notices were issued on 30/09/2022 and 22/02/2024. However assessee did not respond to the notices. A final opportunity was provided to the appellant vide notice dated



13/03/2024 but the assessee failed to comply with the notices before the Ld. CIT(A). Therefore, Ld. CIT (A) dismissed the appeal of the assessee.

7. The assessee filed an appeal against the impugned order passed by the Ld. CIT(A) before us.

8. Ld. Counsel on behalf of the assessee (AR) submitted that no notices were served on the assessee. However, the Ld. AR requested for one more opportunity to be heard may kindly be granted to represent the case before the lower authority. On the contrary Ld. Sr. DR on behalf of the revenue relied on the order of the Ld.CIT (A) but did not objected to the request of the assessee.

9. We have heard both parties and perusal of the on available records. We note that according to the order of the Ld. CIT(A) has issued the notices on 30/09/2022, 22/02/2024 & 13/03/2024 for the hearing to the assessee. The order of the Ld. CIT(A) does not talk about the service of the notices upon the assessee. We further note that the Ld. AO has also passed an ex-parte order. However, the assessee has filed return of income in response to the notice u/s 148 of the I.T. Act, 1961. Therefore, we are of the view that one more opportunity should be given to the assessee to present his case before the Ld. AO. We hereby set aside the order of Ld. AO and remit the matter back to the file of Ld. AO for fresh adjudication on merit after giving due opportunity to the assessee of being heard.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 20/01/2025

ITA No.293/RJT/2024-A.Y. 2016-17
Sunil Kumar
vs. ITO Ward-2(1)(2), Rajkot.



Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Rajkot
दिनांक/ Date:20/01/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot